IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 4TH JULY, 2007 / 13TH ASHADHA, 1929

WP(C).No. 20534 of 2007(T)

PETITIONERS:

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1. BASHEER, S/O. EREEKANDY AMMED,
   FAHAS COTTAGE, KANNANKARA P.O., CHELANNUR
   ICHANNOOR DESOM, KOZHIKODE.

2. ASHA JOSNA, W/O. BASHEER,
   FAHAN COTTAGE, KANNANKARA P.O.,
   CHELANNUR ICHANNOOR DESOM, KOZHIKODE.

BY ADV. SRI.M.C.ANTONY.

RESPONDENTS:

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1. STATE OF KERALA, REP. BY
   CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
   CIVIL STATION, KOZHIKODE.

3. THE TAHSILDAR,
   KOZHIKODE TALUK, KOZHIKODE DISTRICT.

4. THE TALUK SURVEYOR,
   KOZHIKODE TALUK.

5. THE VILLAGE OFFICER,
   CHELANNUR ICHANNOOR DESOM, KOZHIKODE TALUK,
   KOZHIKODE DISTRICT.

BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 20534 OF 2007 - T

Dated this the 4th day of July, 2007

J U D G M E N T

The petitioners challenge Exts.P6 and P7 notices whereby they have been directed to vacate the property mentioned therein within three days. The contention of the petitioners is that the property in question is not Government land, but land belonging to the petitioners themselves. They also contend that the impugned notices were not preceded by any notice or hearing as contemplated under the Kerala Land Conservancy Act and Rules and therefore, the same are in violation of principles of natural justice.

2. I have heard the learned counsel for the petitioners as also the learned Government Pleader.

3. The learned Government Pleader could not satisfy me that the impugned orders were preceded by any notice or hearing. Exts.P6 and P7 also do not contain any reason as to why the emergency provisions of the Kerala Land Conservancy Act and Rules should be invoked. That being so, I am satisfied that the impugned notices have

been issued in violation of principles of natural justice as well as the provisions of the Kerala Land Conservancy Act and Rules. However, if Exts.P6 and P7 are treated as show cause notices, it is not necessary to quash the same.

4. Accordingly, I direct the third respondent to consider Exts.P6 and P7 as show cause notices. The petitioners shall file their objections to the same within one week from today. Thereafter, the third respondent shall afford an opportunity of being heard to the petitioners including an opportunity to adduce evidence. After hearing the petitioners, the third respondent shall pass a speaking order dealing with the contentions of the petitioners on the basis of the evidence to be adduced by them. Till orders are thus passed, the petitioners shall not be evicted from the property in question.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007